

# HOUSE BILL No. 1650

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 24-4.7.

**Synopsis:** Solicitations to mobile telephone numbers. Allows, beginning January 1, 2006, a commercial mobile radio service (CMRS) subscriber to be placed on the quarterly listing of Indiana telephone subscribers that request not to be solicited by telephone. Requires the consumer protection division of the attorney general's office to include a breakdown of the listing's residential and CMRS subscribers in the division's annual report to the regulatory flexibility committee. Prohibits telephone solicitors and other persons, including telecommunications carriers, from selling or otherwise making available to a telephone solicitor a telephone number included on the listing.

**Effective:** Upon passage; January 1, 2006.

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**Heim, Stutzman**

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January 19, 2005, read first time and referred to Committee on Technology, Research and Development.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1650

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 24-4.7-2-1.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JANUARY 1, 2006]: **Sec. 1.5. "CMRS subscriber"**  
4 **means a subscriber of commercial mobile radio service (as defined**  
5 **in 47 CFR 20.3).**

6       SECTION 2. IC 24-4.7-2-2 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 2. "Consumer"**  
8 **means a residential telephone subscriber or a CMRS subscriber who**  
9 **is an actual or a prospective:**

10           (1) purchaser, lessee, or recipient of consumer goods or services;  
11           or

12           (2) donor to a charitable organization.

13       SECTION 3. IC 24-4.7-2-5 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 5. "Doing**  
15 **business in Indiana" means making telephone sales calls to consumers**  
16 **located in Indiana a:**

17           **(1) residential telephone subscriber assigned an Indiana**

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1 **telephone number for local exchange service; or**  
 2 **(2) CMRS subscriber that has a place of primary use (as**  
 3 **defined in IC 6-8.1-15-8) in Indiana;**

4 whether the telephone sales calls are made from a location in Indiana  
 5 or outside Indiana.

6 SECTION 4. IC 24-4.7-2-8 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 8. "Telephone  
 8 number" means a:

9 **(1) residential telephone number; or**

10 **(2) mobile telephone number (as defined in 36-8-16.5-9).**

11 SECTION 5. IC 24-4.7-3-5 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) The  
 13 division shall, after June 30 and before October 1 of each year, report  
 14 to the regulatory flexibility committee established by IC 8-1-2.6-4 on  
 15 the following:

16 ~~(1) For the state fiscal year ending June 30, 2002, the expenses~~  
 17 ~~incurred by the division in establishing the listing:~~

18 ~~(2) (1)~~ The total amount of fees deposited in the fund during the  
 19 most recent state fiscal year.

20 ~~(3) (2)~~ The expenses incurred by the division in maintaining and  
 21 promoting the listing during the most recent state fiscal year.

22 ~~(4) (3)~~ The projected budget required by the division to comply  
 23 with this article during the current state fiscal year.

24 ~~(5) (4)~~ Any other expenses incurred by the division in complying  
 25 with this article during the most recent state fiscal year.

26 ~~(6) (5)~~ The total number of subscribers on the listing at the end of  
 27 the most recent state fiscal year.

28 ~~(7) (6)~~ The number of new subscribers added to the listing during  
 29 the most recent state fiscal year.

30 ~~(8) (7)~~ The number of subscribers removed from the listing for  
 31 any reason during the most recent state fiscal year.

32 **(b) For each state fiscal year, beginning with the state fiscal year**  
 33 **ending June 30, 2006, the division shall, in reporting the**  
 34 **information required under subsection (a)(5), (a)(6), and (a)(7),**  
 35 **identify the number of subscribers that are residential subscribers**  
 36 **and the number of subscribers that are CMRS subscribers.**

37 ~~(b) (c)~~ The regulatory flexibility committee shall, before November  
 38 1 of each year, issue in an electronic format under IC 5-14-6 a report  
 39 and recommendations to the legislative council concerning the  
 40 information received under subsection (a).

41 SECTION 6. IC 24-4.7-4-3 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. (a) This section

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does not apply to a person obtaining consumer information for inclusion in directory assistance and telephone directories sold by telephone companies.

(b) A telephone solicitor or person who obtains consumer information that includes telephone numbers shall exclude the telephone numbers that appear on the division's most current listing.

(c) A telephone solicitor or other person, including a telecommunications carrier (as defined in 47 U.S.C. 153(44)), may not:

- (1) sell or otherwise make available to a telephone solicitor; or
- (2) offer to sell or to otherwise make available to a telephone solicitor;

a telephone number that appears on the division's most current listing.

SECTION 7. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "division" refers to the consumer protection division of the office of the attorney general.

(b) As used in this SECTION, "CMRS subscriber" has the meaning set forth in IC 24-4.7-2-1.5, as added by this act.

(c) As used in this SECTION, "consumer" has the meaning set forth in IC 24-4.7-2-2, as amended by this act.

(d) Notwithstanding IC 24-4.7-2-2, IC 24-4.7-2-5, IC 24-4.7-2-8, IC 24-4.7-3-5, and IC 24-4.7-4-3, all as amended by this act, and IC 24-4.7-2-1.5, as added by this act, the division shall adopt any rules to implement IC 24-4.7-2-2, IC 24-4.7-2-5, IC 24-4.7-2-8, IC 24-4.7-3-5, and IC 24-4.7-4-3, all as amended by this act, and IC 24-4.7-2-1.5, as added by this act, in the same manner as emergency rules are adopted under IC 4-22-2-37.1. Any rules adopted under this SECTION must be adopted not later than September 1, 2005. A rule adopted under this SECTION expires on the earlier of:

- (1) the date a rule is adopted by the division under IC 4-22-2-24 through IC 4-22-2-36 to implement IC 24-4.7-2-2, IC 24-4.7-2-5, IC 24-4.7-2-8, IC 24-4.7-3-5, and IC 24-4.7-4-3, all as amended by this act, and IC 24-4.7-2-1.5, as added by this act; or

- (2) January 1, 2007.

(e) Notwithstanding IC 24-4.7-2-2, IC 24-4.7-2-5, IC 24-4.7-2-8, IC 24-4.7-3-5, and IC 24-4.7-4-3, all as amended by this act, and IC 24-4.7-2-1.5, as added by this act, the division shall adopt any emergency rules under subsection (d) so as to allow a consumer that is a CMRS subscriber to be placed on the quarterly listing

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- 1 maintained by the division under IC 24-4.7-3-1 beginning with the
- 2 quarterly listing for the quarter beginning January 1, 2006.
- 3 (f) This SECTION expires January 1, 2007.
- 4 SECTION 8. An emergency is declared for this act.

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